

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

**SUBJECT: SUMMARY VACATION OF
A LANDSCAPE EASEMENT
AT 2398 BENTLEY RIDGE DRIVE**

DATE: 08-25-04

Approved

Katy Winer

Date

8/30/04

Council District: 8

RECOMMENDATION

Adoption of a resolution summarily vacating a portion of the Landscape Easement (LE) lying within the parcel located at Lot 232 Tract 8991, also known as 2398 Bentley Ridge Drive. CEQA: Exempt, PP03-12-370.

BACKGROUND

An application for the vacation of this LE has been submitted by MacKay & Soms Civil Engineers on behalf of the property owners, Walter Keller and Robin Ford. On July 31, 2003, the City Attorney's Office informed the property owners of various code violations on their property which include, but are not limited to, the illegal relocation of their private fence into a City LE area at the rear of their property, the installation of landscaping and hardscape in a portion of the LE that surrounds a swimming pool constructed adjacent to the buildable property line, and their failure to comply with State and local building codes and swimming pool safety regulations. The Greenbriar Bel Aire Company, Inc. constructed the original fence at the LE boundary line with the development of Tract 8991 and this fence was subsequently relocated onto the City LE by the current property owners. In lieu of the relocation of the above-mentioned landscaping and hardscape, the property owners have applied for the vacation of a portion of the LE. The Code Enforcement Division of the Department of Planning, Building, and Code Enforcement enforced the code violations, which have since been remedied, while Public Works dealt with the encroachment issue.

ANALYSIS

This LE was created with the 1998 recordation of the subdivision map for Tract 8991. The original purpose of the LE was to create a City Maintenance District landscape area at the rear slope of the property. Staff has also confirmed there are no public facilities located within the

LE. As a result of numerous meetings and correspondence between the property owners and the City, the vacation of a portion of the LE at the rear of the property and the payment to the City of the fair market value of the property was presented as a solution that would allow the property owners to retain the hardscape and landscaping around the swimming pool, while addressing the City's concerns regarding the encroachment on the LE. Consequently, staff has determined that the portion of the LE can be vacated without adverse effects to the City's ability to maintain the landscaping, so long as the property owners remedy all code violations on the property, pay for staff time associated with the proposed vacation, and financially compensate the City for the loss of the landscape area. The property owners have paid fees for the staff time and have also agreed to compensate the City in the amount of \$19,140 for the loss of a portion of the landscape easement. This compensation represents the market value of the area proposed for vacation and is based on June 15, 2004 appraisal report prepared by Diaz, Diaz, & Boyd, Inc. Upon the City's receipt of a cashier's check for \$19,140, the Department of General Services will process a quitclaim deed to the property owners for the area to be vacated. Upon recordation of the vacation resolution and quitclaim deed, a portion of the LE will be removed from the subject property and no further action by the City would be required. This is the last measure in order to bring this property into compliance and remedy the previously noted violations

PUBLIC OUTREACH

Not applicable.

COORDINATION

The required resolution and memo have been reviewed by the City Attorney's Office and the City Manager's Budget Office, and the vacation has been coordinated with the Departments of Planning, Building and Code Enforcement and General Services.

COST IMPLICATIONS

Vacating the LE is in alignment with the Mayor's Budget Expenditure Control Strategy by reducing a City Maintenance District obligation and liability in a public easement. As discussed above, the owners have paid fees for the staff time to process the proposed vacation and will reimburse the City \$19,140 for the loss of a portion of the landscape easement.

HONORABLE MAYOR AND CITY COUNCIL

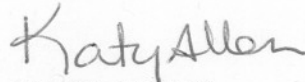
08-25-04

Subject: Summary Vacation of a Landscape Easement at 2398 Bentley Ridge Drive

Page 3

CEQA

Exempt, PP03-12-370.

A handwritten signature in cursive script that reads "Katy Allen".

KATY ALLEN

Director, Public Works Department

HF:ml

Bentley Vacation 08-17-04.doc.doc

Attachment

T-147.008\269803

LOCATION MAP

SHOWING THE VACATION OF A PORTION OF
THE LANDSCAPE EASEMENT AT 2398 BENTLEY RIDGE DRIVE



AREA TO BE VACATED

EXHIBIT A

